

No: PCKL/A12/5/2018-19/1516-21

15 JUL 2020

The Secretary,  
Central Electricity Regulatory Commission,  
3<sup>rd</sup> and 4<sup>th</sup> Floor, Chandralok Building,  
36, Janpath,  
New Delhi - 110001.

Sir,

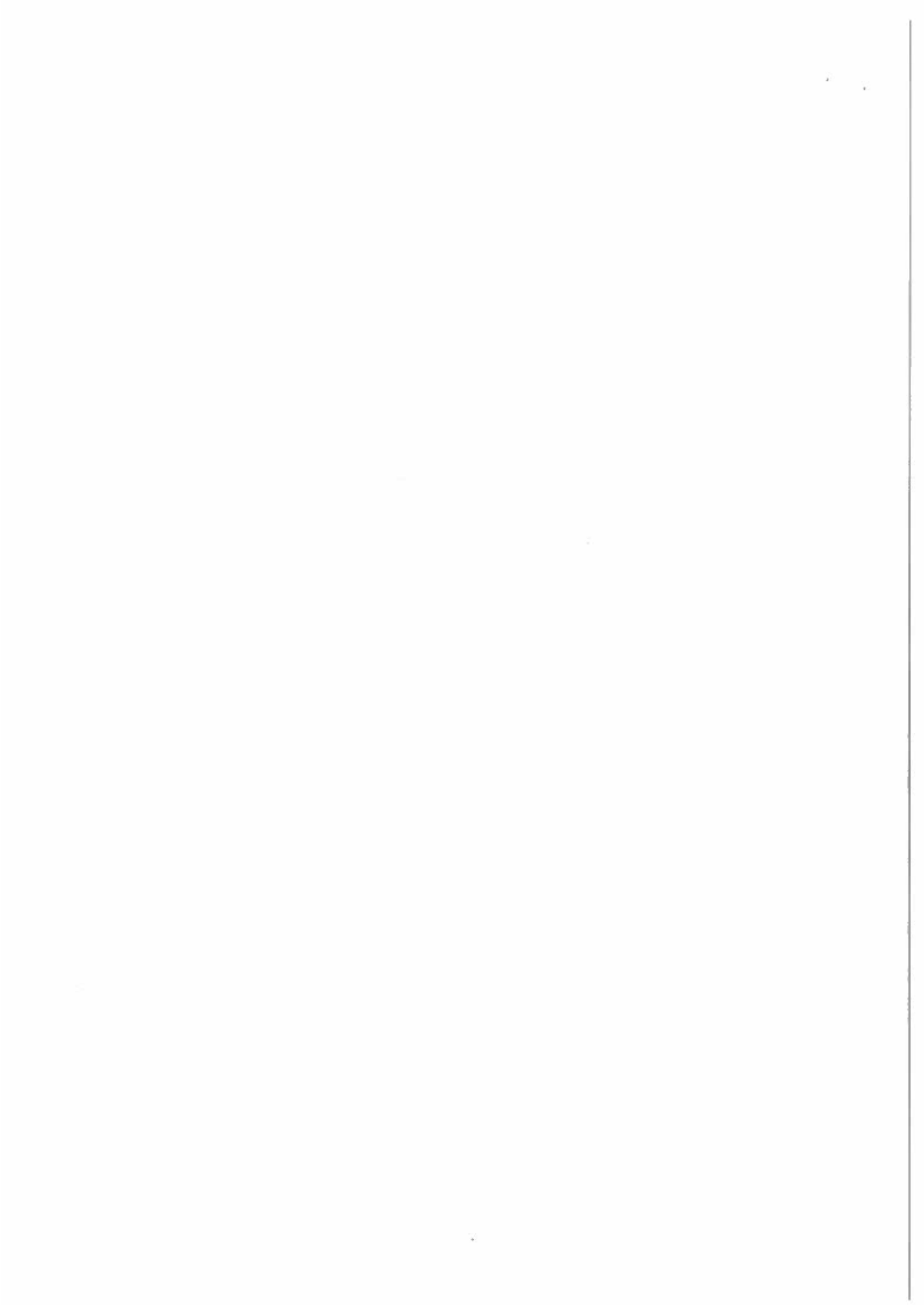
**Sub: CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2020**

With reference to the above, PCKL on behalf of ESCOMs of Karnataka has placed the following comments/suggestion on the proposed amendments to CERC (Terms and Conditions of Tariff) (Amendment) Regulation 2020

New proviso has been proposed in the amendment to CERC (Terms and Conditions) Tariff Regulation 2020, wherein, the charges payable by the a beneficiary or long term customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges levied by the generating company or the transmission licensee as the case be starting from the longest overdue bill.

Model agreement for procurement of power (FOO) through Medium term notified by Ministry of power on 16.1.2017 has specified that any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests and there is no clause for adjustment of payment first against the surcharge. The extract of clause is reproduced hereunder

*25.4 Delayed payments The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.*



In the Guidelines and model bidding documents for long term procurement of electricity from thermal power stations set up under DBFOO and DBFOT issued by the Ministry of power on 5<sup>th</sup> March 2019, there is no clause for payments are first adjusted against the surcharges. The extract of the clause is reproduced here under:

Delayed payments 38.4.1

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall MOP/MPSA-DBFOO/ March 2019, pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

38.4.2

Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

Similarity, agreement executed with NTPC/NTPC VVNL and Solar Energy Corporation of India for sale of solar power through competitive bidding, the priority of adjustment of the payment shall be in the following manner.

- ✓ Provisional solar power supplied in the immediate preceding month
- ✓ (a) Adjustments against the Provisional Bill(s) based on Energy Accounts for the solar power supplied in the Month(s) preceding to the previous month(s);
- ✓ (b) Any other adjustments to cover open access related charges and any other prior period adjustments;
- ✓ Late payment Surcharge, if any; and
- ✓ Taxes, Duties, Levies etc as applicable

All procurement of power done under section 63 of the Electricity Act, the adjustment of payments made by the beneficiary in different manner.

The above proposal is to be review in view the various guidelines issued by Ministry of Power for selection of bidders through competitive bidding route.

Further, Honb'le CERC issues various tariff orders in the middle of the year for ISGS/CTUs/ other. Each order has impacted on the DISCOMs cash flow. Any claims towards revision of tariff/arrears of the Generating Station and Transmission charges or any others charges claimed by these

generators cannot be passed on to the retail consumer immediately. Each DISCOM shall file with full details of its calculations for the ensuing financial year of the Expected Revenue from Charges (ERC) not later than four months before the commencement of each financial year. The details of the proposed investments, calculations of the ERC in the formats prescribed by the Commission have to be filed by the DISCOMS.

The State Commission follows the procedure and hears the views of the public and the utilities before the tariff is determined. For Example, Commission issued order to make arrears of tariff payment and revision of tariff in the month of Dec, the same could not be included the tariff for next year as the filing of tariff of next year ends on 30th November of each year. As such arrears or the revision of tariff will be recovered by the DISCOMs after completion of the one and Half years. Moreover, the recovery of tariff also spread for one year, not like the Generation tariff or Transmission tariff at one stretch. There would be no cash flow to clear the arrears amount or the revision of tariff in all case. Inevitably, DISCOMs have to Keep the arrears, which is keep on accumulated. Considering the above factor, Commission may reconsider the following proposal, before finalizing amendment to Tariff Regulation 2020

- ✓ Statutory dues like income tax, other tax, royalty etc., in the current bill(s)
- ✓ Revenue arrears
- ✓ Current month's revenue
- ✓ Interest on Revenue arrears

Regarding the Energy charge rate, Input cost price of coal or lignite from the integrated mine is most important to determine the energy charges rate of the Generating station and also most important for scheduling of the plant based on merit order dispatch. Hence, any increase in price of coal or lignite after scheduling of the power will impact on the power purchase cost and defeat the merit order despatch procedure. Therefore Commission in the truing up exercise as proposed in the regulation may done for reduction in the input price not for the increase in the input cost of coal and lignite after completion of the control period. The estimation of cost shall be very closer to the reality.

The detailed comments on the each regulation are enclosed herewith for consideration.

**Yours faithfully,**

  
**ADDITIONAL DIRECTOR (PROJECTS)**

Views / suggestions of PCKL on draft CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
Definition (4a)	“(4a) ‘Annual Target Quantity’ or ‘ATQ’ in respect of an integrated mine means the quantity of coal or lignite to be extracted during a year from such integrated mine as specified in the Mining Plan;”	“(4a) ‘Annual Target Quantity’ or ‘ATQ’ in respect of an integrated mine means the quantity of coal or lignite to be extracted during a year which is equivalent to the Normative availability of the concerned thermal Generating Station.	The CERC has fixed normative annual plant availability factor to recover the full capacity charges for Generating Stations. Hence, it shall be linked to as per the CERC (Terms and Conditions Tariff) Regulation 2019, as amended from time to time.
Definition 14	‘Cut-off Date’ means the last day of the calendar month after thirty six months from the date of commercial operation of the project <b>except in case of integrated mine.</b>	<b>Cut-off Date’</b> means the last day of the calendar month after twenty Four months from the <b>date of commencement of production in respect of integrated mine</b>	Peak rated capacity shall be reached after two years, hence cut off date shall be twenty Four months from the <b>date of commencement of production</b>
5	Amendment to Regulation 5 of the Principal Regulations. “(3) The date of commercial operation in case of an integrated mine, shall mean the earliest date amongst the following: a) First date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or	Amendment to Regulation 5 of the Principal Regulations. The date of commercial operation in case of an integrated mine, shall mean the date of <b>commencement of production</b>	The commencement of production date shall be date of CoD as the date of production of coal or Lignite started.

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>b) First date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or</p> <p>c) Date of two years from the Date of Commencement of Production;</p> <p>Provided that in case the integrated mine is ready for commercial operation but is prevented from the declaration of date of commercial operation for reasons not attributable to the generating company, its suppliers or contractors, the Commission may approve another date of commercial operation, considering the reasons that prevented the declaration of the date of commercial operation."</p>		
6.	<p><b>Treatment of mismatch in date of commercial operation:</b> In case of mismatch between the date of commercial operation of the generating station and the transmission system, and between the transmission systems of two transmission licensees, the liability for the transmission charges shall be determined in accordance with provisions of</p>		<p>Mismatch between the CoD of the generating station and CoD of the mine is not spelt out in the Regulation</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
11.	<p><b>Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020</b> and as amended from time to time.”</p> <p><b>Amendment to Regulation 11 of the Principal Regulations.</b></p> <p>“(2) The generating company undertaking any additional capitalization in integrated mine on account of change in law events or force majeure conditions may, after intimating the beneficiaries, file a petition for in-principle approval for incurring such expenditure, along with underlying assumptions, estimates and justification for such expenditure, if the estimated expenditure exceeds 10% of the admitted capital cost of the integrated mines or Rs.100 Crores, whichever is lower;”</p>	<p><b>Amendment to Regulation 11 of the Principal Regulations.</b></p> <p>The generating company undertaking any additional capitalization in integrated mine on account of change in law events or force majeure conditions may, after intimating the beneficiaries, file a petition for in-principle approval for incurring such expenditure, along with underlying assumptions, estimates and justification for such expenditure,</p>	<p>The tariff petition may be filed immediate to determine the input cost of coal or lignite. As these costs are impacted on the merit order despatch of the generating station.</p>
13.	<p><b>Amendment to Regulation 13 of the Principal Regulations.</b></p> <p>“(1a) The input price of coal and lignite from the integrated mines of the generating station for the period 2019-24 shall be trued up for: a) the capital expenditure including additional</p>	<p><b>Amendment to Regulation 13 of the Principal Regulations.</b></p> <p>“(1a) The input price of coal and lignite from the integrated mines of the generating station for the period 2019-24 shall be trued up for:</p> <p><b>Provided that, petition shall be filed immediately for revision of the input price of coal or lignite</b></p>	<p>Input cost price of coal or lignite from the integrated mine is most important to determine the energy charges rate of the Generating station and also most important for scheduling of the plant based on merit order dispatch. Hence, any increase in price of coal or</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
36	<p>capital expenditure incurred up to 31.3.2024, as allowed by the Commission;</p> <p>b) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, on account of Force Majeure and Change in Law, as admitted by the Commission."</p>	<p>a) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, as allowed by the Commission;</p> <p>b) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, on account of Force Majeure and Change in Law, as admitted by the Commission."</p> <p><b>Provided that truing up exercise shall be done, only for reduction in input price</b></p> <p><b>Amendment to Regulation 36 of the Principal Regulations</b></p> <p>(2) The generating company shall, after the Date of <b>Commencement of production of the integrated mine the input price of coal</b> is determined by the Commission under these regulations,</p>	<p>lignite after scheduling of the power will impact on the power purchase cost and defeat the merit order despatch procedure. Therefore Commission in the truing up exercise as proposed in the regulation may done for reduction in the input price not for the increase in the input cost of coal and lignite after completion of the control period. The estimation of cost shall be very closer to the reality.</p> <p>In the proposed amendment, COD of the integrated mine shall be</p> <ol style="list-style-type: none"> <li>1. First date of the year succeeding the year in which 25% of the peak rated capacity as per the Mining plan is achieved or</li> <li>b) First date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or</li> <li>c) Date of two years from the Date</li> </ol>



Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>Provided that the difference between the input price of coal determined under these regulations and the input price of coal so adopted prior to such determination, for the quantity of coal billed, shall be adjusted in accordance with Clause (4) of this Regulation.</p> <p>(3) The generating company shall, after the Date of Commercial Operation of the integrated mines, till the input price of lignite is determined by the Commission under these regulations, fix the input price of lignite for the generating station at the last available pooled lignite price as determined by the Commission for transfer price of lignite; Provided that the difference between the input price of lignite determined under these regulations and the input price of lignite so fixed prior to such determination, for the quantity of lignite billed, shall be adjusted in accordance with Clause (4) of this Regulation.</p>	<p>(3) The generating company shall, after the Date of Commencement of production of the integrated mines, the input price of lignite is determined by the Commission under these regulations,</p>	<p>of Commencement of Production;</p> <p>The maximum period allowed in the proposal is 2 years from the date of commencement of production. The CoD of 2 years from the date of Commencement of production is too longer duration.</p>
<b>36B.</b>	<p><b>Run of Mine (ROM) Cost:</b></p> <p>(1) Run of Mine Cost of coal in case of integrated mines allocated through allotment order under Coal mines (Special Provisions) Act, 2015 shall be worked out as under:</p>	<p><b>Run of Mine (ROM) Cost:</b></p> <p>ROM Cost = [(Annual Extraction Cost / ATQ or Normative plant availability whichever is higher) + (mining charge)] + (Fixed Reserve</p>	<p>Generating station has to achieve plant at normative plant availability factors specified in the Regulation. The annual production is less than the normative plant availability factor, and then input</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>ROM Cost = [(Annual Extraction Cost / ATQ) + (mining charge)] + (Fixed Reserve Price)</p> <p>(3) The Run of Mine Cost of lignite in case of integrated mines for lignite shall be worked out as under:</p> <p>ROM Cost = [(Annual Extraction Cost / ATQ) + (mining charge)]</p>	<p>Price)</p> <p>(3) The Run of Mine Cost of lignite in case of integrated mines for lignite shall be worked out as under:</p> <p>ROM Cost = [(Annual Extraction Cost / ATQ) or Normative plant availability whichever is higher] + (mining charge)]</p> <p><b>Capital Cost:</b></p> <p>For integrated mine with Date of Commercial Operation prior to 1.4.2019, the capital cost already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price of lignite</p>	<p>cost of coal or lignite will be higher. As a result energy charges rate per unit will increase.</p>
36D	<p><b>Capital Cost:</b></p> <p>(5) For integrated mine with Date of Commercial Operation prior to 1.4.2019, the capital cost already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price.</p>	<p><b>Capital Structure, Return on Equity and Interest on Loan:</b></p> <p>(1) For an integrated mine, the debt-equity ratio as on the date of commercial operation and as on the date of achieving Peak Rated Capacity shall be considered in the manner as specified under Clause (1) of Regulation 18</p>	<p>Input price of coal is determining for first time, the capital cost as on 31.3.2019 has to be determined by the Commission. Hence, this clause applicable only for the capital cost of Lignite</p>
36G	<p><b>Capital Structure, Return on Equity and Interest on Loan:</b></p> <p>(1) For an integrated mine, the debt-equity ratio as on the date of commercial operation and as on the date of achieving Peak Rated Capacity shall be considered in the manner as specified under Clause (1) of Regulation 18</p>	<p><b>Capital Structure, Return on Equity and Interest on Loan:</b></p> <p>For an integrated mine, the debt-equity ratio as on the date of commencement of production and Rated Capacity shall be considered in</p>	<p>Capital cost as on the date of commencement of production shall be considered for debt equity ratio, Interest on loan and return on equity.</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>of these regulations: Provided that for integrated mine in respect of lignite with Date of Commercial Operation prior to 1.4.2019, the debt-equity ratio already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price.</p> <p>(4) The base rate of return on equity as allowed by the Commission in this Regulation shall be grossed up with the effective tax rate computed in the manner specified under Regulation 31 of these regulations.</p>	<p>the manner as specified under Clause (1) of Regulation 18 of these regulations: Provided that for integrated mine in respect of lignite with Date of Commercial Operation prior to 1.4.2019, the debt-equity ratio already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price.</p> <p>The income tax shall be limited actual or base rate of return on equity as allowed by the Commission in this Regulation shall be grossed up with the effective tax rate computed in the manner specified under Regulation 31 whichever is lower shall be payable.</p> <p>In case of mines are allocated through auction under coal, the grossed up tax need specify separately</p>	<p>NLC has adopted 6.33% considering 15 years, with the approval of ministry of Corporate affairs, though the rate as per the provisions of companies act is 11.875%. Hence, Commission may</p>
<b>36H</b>	<p><b>Depreciation:</b></p> <p>(1) Depreciation in respect of integrated mines shall be computed from the date of commercial operation by applying Straight Line Method.</p>		

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>(2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission: Provided that,</p> <p>i) free hold land or assets purchased from grant shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;</p> <p>ii) where the allotment of freehold land is conditional and is required to be returned, the cost of such land shall be part of value base for the purpose of depreciation, subject to prudence check by the Commission; and</p> <p>iii) lease hold land shall be amortized over the lease period or remaining life of the mine, whichever is lower.</p> <p>(3) The salvage value of an asset shall be considered as 5% of the capital cost of the asset: Provided that the salvage value shall be:</p> <p>i) zero or as agreed by the generating company with the State Government for</p>		<p>specify the depreciation after consultation with Ministry of affairs for adopting uniform procedure.</p>

<b>Regulation No.</b>	<b>Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020</b>	<b>Changes proposed</b>	<b>Rationale</b>
	<p>land; and</p> <p>ii) as specified by the Ministry of Corporate Affairs for specialized mining equipment.</p> <p>(4) The depreciation of integrated mine shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in Appendix 1 of these regulations: Provided that specialized mining equipment shall be depreciated as per the useful life and depreciation rate as specified by the Ministry of Corporate Affairs.</p>		
<b>36J</b>	<p><b>Interest on Working Capital:</b></p> <p>(1) The working capital of the integrated mines of coal shall cover:</p> <p>(i) Input cost of coal stock for 7 days of production corresponding to the Annual Target Quantity for the relevant year;</p> <p>(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 15% of operation and maintenance expenses, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and</p>	<p><b>Interest on Working Capital:</b></p> <p>(1) The working capital of the integrated mines of coal shall cover:</p> <p>(i) Input cost of coal stock for 7 days of production corresponding to the <b>Annual Target Quantity or normative plant availability factor</b> for the year.</p> <p>(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 15% of operation and</p>	

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>Operator, engaged by the generating company; and</p> <p>(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company.</p> <p>(2) The working capital of the integrated mine of lignite shall cover:-</p> <p>(i) Input cost of lignite stock for 7 days of production corresponding to the Annual Target Quantity for the year;</p> <p>(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 20% of operation and maintenance expenses, excluding mining charge of Mine Developer or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company; and</p> <p>(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company; and</p> <p>(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company.</p> <p>(2) The working capital of the integrated mine of lignite shall cover:-</p> <p>(i) Input cost of lignite stock for 7 days of production corresponding to the Annual Target Quantity for the year;</p> <p>(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 20% of operation and maintenance expenses, excluding mining charge of Mine Developer or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company; and</p> <p>(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company; and</p>	<p>maintenance expenses, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company; and</p> <p>(iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company.</p> <p>(2) The working capital of the integrated mine of lignite shall cover:-</p> <p>(i) Input cost of lignite stock for 7 days of production corresponding to the Annual Target Quantity or normative annual plant availability factor for the year;</p> <p>(ii) Consumption of stores and spare including explosives, lubricants and fuel @ 20% of operation and maintenance expenses, excluding mining charge of Mine Developer and</p>	

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	any agency other than Mine Developer or Operator, engaged by the generating company.	Operator or annual charges of any agency other than Mine Developer or Operator, engaged by the generating company; and  (iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer or Operator, engaged by the generating company.	
<b>36L</b>	<b>Computation of Input Price:</b> (1) The input price of coal or lignite shall be computed as under: Input Price = [ROM Cost + Additional charges] (2) The credit arising on account of adjustment due to shortfall in overburden removal, GCV Adjustment and Non-tariff Income, if any, shall be dealt separately in the manner specified in these regulations. (3) Statutory Charges, as applicable, shall be allowed	<b>Computation of Input Price:</b> (1) The input price of coal or lignite shall be computed as under: Input Price = [ROM Cost + Additional charges] (2) The credit arising on account of adjustment due to shortfall in overburden removal, GCV Adjustment and Non-tariff Income, if any, shall be dealt separately in the manner specified in these regulations. (3) Statutory Charges, as applicable, shall be allowed <b>on actual basis</b>	Statutory Charges, as applicable, shall be allowed <b>on actual basis</b>
<b>36O</b>	<b>Adjustment on account of shortfall in GCV (GCV Adjustment):</b>  (1) In case the weighted average GCV of Coal extracted in a year is higher than the declared GCV of coal, no GCV adjustment shall be	<b>Adjustment on account of shortfall in GCV (GCV Adjustment):</b>	This clause is applicable only for the integrated mine allocated through auction under coal Mines (special provisions) Act 2015. In other case, the actual cost incurred by the generating

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
	<p>done.</p> <p>(2) In case the weighted average GCV of coal extracted in a year is lower than the declared GCV of coal, the GCV adjustment in that year shall be worked out as under:</p> <p>(a) Where the integrated mine is allocated through auction under Coal Mines (Special Provisions) Act, 2015:</p> <p>GCV Adjustment = (Quoted Price of coal) X [(Declared GCV of coal - Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]</p> <p>Where,</p> <p>i) Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement:</p> <p>Provided that additional premium, if any, quoted by the generating company in auction, shall not be considered; and</p>	<p>This clause applicable only for the integrated mine allocated through auction under coal Mines (special provisions) Act 2015.</p>	<p>company shall be allowed by the commission. Therefore, adjustment of GCV on account of short fall in GCV does not arise.</p>



<b>Regulation No.</b>	<b>Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020</b>	<b>Changes proposed</b>	<b>Rationale</b>
	<p>ii) Declared GCV of coal shall be the GCV of coal as specified or quoted in the auction.</p> <p>(b) Where the integrated mine is allocated through allotment order under Coal Mines (Special Provisions) Act, 2015:</p> <p>GCV Adjustment = [(Annual Extraction Cost/ATQ) + (mining charge)] X [(Declared GCV of coal -Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]</p> <p>Where,</p> <p>i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation (36F) of these regulations;</p> <p>ii) mining charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable; and</p> <p>iii) Declared GCV of coal shall be the average GCV as per the Mining plan or as approved by the Coal Controller.</p>		

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
59.	<p>Amendment to Regulation 59 of the Principal Regulations.</p> <p>(2) The charges payable by a beneficiary or long term customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges levied by the generating company or the transmission licensee, as the case may be, starting from the longest overdue bill."</p>	<p>Amendment to Regulation 59 of the Principal Regulations.</p> <p>All payments made by the Principal buyer will be adjusted in the following order of priority</p> <ol style="list-style-type: none"> <li>1. Statutory dues like income tax, other tax, royalty etc., in the current bill(s)</li> <li>2. Revenue arrears</li> <li>3. Current month's revenue</li> <li>4. Interest on Revenue arrears</li> </ol>	<p>Model agreement for procurement of power (FOO) through Medium term notified by Ministry of power on 16.1.2017 has specified that any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests and there is no clause for adjustment of payment first against the surcharge. The extract of clause is reproduced hereunder</p> <p><i>25.4 Delayed payments The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay</i></p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
			<p>interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.</p> <p>In the Guidelines and model bidding documents for long term procurement of electricity from thermal power stations set up under DBFOO and DBFOT issued by the Ministry of power on 5<sup>th</sup> March 2019, there is no clause for payments are first adjusted against the surcharges. The extract of the clause is reproduced here under:  <u>Delayed payments 38.4.1</u>  The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
			<p>receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall MOP/MPSA-DBFOO/ March 2019, pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.</p> <p>38.4.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.</p> <p>Similarity, agreement executed with NTPC/NTPC VVNL and Solar Energy Corporation of India for sale of solar power through competitive bidding, the priority of adjustment of the payment shall</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
			<p>be in the following manner.</p> <ul style="list-style-type: none"> <li>✓ Provisional solar power supplied in the immediate preceding month</li> <li>✓ (a) Adjustments against the Provisional Bill(s) based on Energy Accounts for the solar power supplied in the Month(s) preceding to the previous month(s);</li> <li>✓ (b) Any other adjustments to cover open access related charges and any other prior period adjustments;</li> <li>✓ Late payment Surcharge, if any; and</li> <li>✓ Taxes, Duties, Levies etc as applicable</li> </ul> <p>All procurement of power done under section 63 of the Electricity Act, the adjustment of payments made by the beneficiary in different manner.</p> <p>The above proposal is to be review in view the various guidelines issued by Ministry of</p>

<b>Regulation No.</b>	<b>Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020</b>	<b>Changes proposed</b>	<b>Rationale</b>
			<p>Power for selection of bidders through competitive bidding route.</p> <p>Further, Hon'ble CERC issues various tariff orders in the middle of the year for ISGS/CTUs/ other. Each order has impacted on the DISCOMs cash flow. Any claims towards revision of tariff/arrears of the Generating Station and Transmission charges or any others charges claimed by these generators cannot be passed on to the retail consumer immediately. Each DISCOM shall file with full details of its calculations for the ensuing financial year of the Expected Revenue from Charges (ERC) not later than four months before the commencement of each financial year. The details of the proposed investments, calculations of the ERC in the formats prescribed by the Commission have to be filed by the DISCOMS.</p> <p>The State Commission follows the procedure and hears the views of the public and the utilities before the tariff is</p>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
			<p>determined. For Example, Commission issued order to make arrears of tariff payment and revision of tariff in the month of Dec, the same could not be included the tariff for next year as the filing of tariff of next year ends on 30th November of each year. As such arrears or the revision of tariff will be recovered by the DISCOMs after completion of the one and Half years. Moreover, the recovery of tariff also spread for one year, not like the Generation tariff or Transmission tariff at one stretch. There would be no cash flow to clears the arrears amount or the revision of tariff in all case. Inevitably, DISCOMs have to keep the arrears , which is keep on accumulated. Considering the above factor, Commission may reconsider the following proposal, before finalizing amendment to Tariff Regulation 2020</p> <ul style="list-style-type: none"> <li>✓ Statutory dues like income tax, other tax, royalty etc., in the current bill(s)</li> <li>✓ Revenue arrears</li> </ul>

Regulation No.	Contents in the CERC (Terms and Conditions of Tariff) Second Amendment Regulations, 2020	Changes proposed	Rationale
			<input checked="" type="checkbox"/> Current month's revenue Interest on Revenue arrears